

Report on the

Board of Hearing Instrument Dealers

Montgomery, Alabama



Department of Examiners of Public Accounts

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September 8, 2004

Rep. Howard Sanderford, Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Hearing Instrument Dealers** in accordance with the ***Code of Alabama 1975***, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Hearing Instrument Dealers**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones
Chief Examiner

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PROFILE

Purpose/Authority

The Board of Hearing Instrument Dealers, formerly the Board of Hearing Aid Dealers, was created in 1971 to license and regulate dealers and fitters of hearing aids. The board's administrative functions were for a time performed by the Department of Public Health. The board became an independent board on June 1, 1994. The board currently operates under the provisions of the ***Code of Alabama 1975***, Sections 34-14-1 through 34-14-33. These functions include examining and licensing qualified applicants and regulating licensed hearing instrument dealers. The board also conducts investigations and hearings based on complaints against licensees.

Board Characteristics

Members	8
Term	4 years No member who has served two or more full terms may be reappointed to the board until at least one year after the expiration of the most recent full term of office.
Selection	Appointed by the governor from a list of qualified persons submitted by the Alabama Hearing Aid Association, Inc .
Qualifications	<ul style="list-style-type: none">◆ Five licensees with three years experience◆ One may be a hearing aid fitter.◆ One physician specializing in diseases of the ear.◆ One audiologist◆ One consumer (cannot vote on disciplinary actions).◆
Racial Representation	No statutory requirement No minority members
Geographical Representation	No statutory requirements
Consumer Representation	One member must be a consumer. Neither the consumer member nor his or her spouse may be a hearing aid fitter or dispenser .
Compensation	\$25 per day Travel expense reimbursement at state employee rate

Operations

Executive secretary	Executive Secretary - Jeanne Stanfield - shared staff by contract with the Board of Examiners for Dietetic/Nutrition Practice. Contract includes employee services, office space, incoming fax line and basic utilities. Annual salary \$21,600.00.
Location	400 South Union Street, Suite 445 Montgomery, AL 36130
Type of Licenses	Fitters- – 37 Dispenser – 74 Apprentice – <u>15</u> Total 126
Renewals	Annually on or before January 30
Examinations	Written and Practical At least 3 times per year
Reciprocity	Board may issue a certificate of endorsement to an individual from another state or jurisdiction if the requirements for licensure are equivalent to or more stringent than Alabama's.
Continuing Education	8 hours annually – required by law
Employees	1 contract employee
Legal Counsel	Attorney General's Office
Subpoena Power	Yes-both records and witnesses <i>Code of Alabama 1975</i> , Section 34-14-11(c)
Internet Presence	None

Financial

Source of Funds	License fees
State Treasury	Yes
Unused Funds	Remain on deposit in the State Treasury for use by the board.

SIGNIFICANT ITEMS

1. **Board member appointments have not been timely** – The board has four positions in which no one is serving, and one position is served by a member whose term expired in 2002. The board's physician position has been vacant since September 2002. The board is awaiting appointments to its membership. According to the executive secretary, two nominations to fill vacancies have been submitted to the governor.
2. **The law no longer names the intended organization as the nominating body for board members.** The *Code of Alabama 1975*, Section 34-14-30 (c) provides that, "All members of such board shall be appointed by the Governor from a list of qualified persons nominated by the Alabama Hearing Aid Association." The name of the association has been changed to the Alabama Society for Hearing Healthcare Providers.
3. **The board is short of funds** - Board members are electing to waive their expenses for attending board meetings (reimbursement for travel and compensation) to reduce expense to the board. The fees that can be charged are set at specific amounts in the board's enabling statutes. The board plans to submit legislation that will allow the restructure of fees
4. **Statutes that address administrative fines appear in conflict.** – The administrative fine against offending licenses in the *Code of Alabama 1975*, section 34-14-9 (b) is set at not more than \$1,000 per violation while the fine is set in the *Code of Alabama 1975*, Section 34-14-9 (c) is set at not more than \$500 per violation. The board plans to submit legislation to resolve this issue.

Section 34-14-9(b) provides that, "The board is hereby authorized to discipline its licensees and apprentices by the adoption and collection of administrative fines, not to exceed \$1,000.00 per violation and is authorized to institute any legal proceedings necessary to effect compliance with this chapter."

Section 34-14-9 (c) provides that, "Any person registered under this chapter may have his or her permit or license revoked or suspended by the board, be reprimanded by the board, or be administratively fined not more than five hundred dollars (\$500) per violation by the board for any of the following causes:" (A list of 8 causes, including 10 types of unethical conduct, follows)

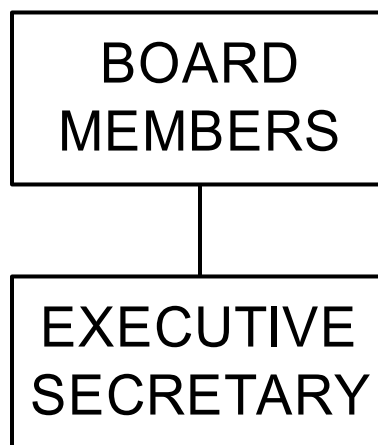
5. **Statutes name the board's vice chairman as the complaints chairman, a condition that does not allow the board the flexibility in handling complaints that it desires.** - The *Code of Alabama, 1975*, Section 34-14-30 (c) states "The Vice-Chairman shall serve as the complaints chairman." According the board's executive secretary, the board wants to remove this requirement so the board can designate a complaints chairman. The board plans to submit legislation to remove the requirement.

STATUS OF PRIOR FINDINGS

There are no unresolved prior audit findings.

ORGANIZATION

BOARD OF HEARING INSTRUMENT DEALERS



PERSONNEL

The Board of Hearing Instrument Dealers has an interagency agreement with the Board of Examiners for Dietetic/Nutrition Practice to provide administrative services and facilities. The executive secretary for the Board of Dietetic/Nutrition Practice also serves as the executive secretary for the Board of Hearing Instrument Dealers.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee –126

Total Expenditures per Licensee (2002-2003 fiscal year) - \$209.44

Number of Persons per Licensee in Alabama and Surrounding States

	<u>Population (Estimate)</u>	<u>Number of Licensees</u>	<u>Persons Per Licensee</u>
Alabama	4,500,752	126	35,720
Florida	17,019,068	900	5,673
Georgia	8,684,715	173	50,201

Mississippi	2,881,281	227	12,693
Tennessee	5,841,748	109	53,594

*- State population information obtained from census report, April 1, 2000 to July 1, 2003.

Fees Charged by Other Southeastern States (1)

Location	# of Licenses	License Type	Fees
Tennessee	109	Dispenser Application Include	
		Including National Exam	\$ 810.00
		Dispenser License Reciprocity	635.00
		Apprentice Application & License	260.00
		Renewal - 2 years	710.00
		Late Fee	150.00
Florida	900	Initial License Hearing Specialist	\$ 600.00
		Renewal - 2 years	600.00
		Trainee Permit	105.00
		Application \$150.00/Examination \$300.00	450.00
Georgia	173	Hearing Aid Dealer/ Office Application	\$ 200.00
		Dispenser Application	200.00
		Dispenser License	80.00
		Dealer License	80.00
		Examination Fee	150.00
		Permit	50.00
		Trainee	25.00
		License Verification	25.00
Mississippi	227	Application	\$ 100.00
		Apprentice/Temporary	100.00
		Dispenser License & Renewal	200.00
		Temporary	50.00
		Reinstatement Fee	250.00
		License Replacement	25.00
		Duplicate	25.00
		ID Card	10.00
		License Verification	25.00

(1) - Information Provided by Executive Secretary. Data obtained by contacting state's regulatory body and the Internet.

Notification to Licensees of Board Decisions to Amend Administrative Rules

The board complied with rulemaking procedures provided in the Administrative Procedure Act, which includes submitting proposed rules to the Legislative Reference Service for publication in the Administrative Monthly.

Jurisdiction Over Non-Licensees

The board does not have jurisdiction over non-licensees. Complaints against non-licensees are referred to the Attorney General's Office, Consumer Protection Division.

Overlap of Jurisdiction

Audiologists, who can also fit and sell hearing instruments, are licensed and regulated by the Alabama Board of Speech-Language Pathology and Audiology. Audiologists are exempt from regulation by the Board of Hearing Instrument Dealers.

The Federal Food and Drug Administration exercises federal regulatory jurisdiction over hearing instrument dealers and issues regulations applicable to hearing instrument dealers that specify requirements for medical evaluation by a licensed physician, record keeping, required warnings, and penalties.

Complaint Resolution

The board has established written procedures for investigating complaints. Complaints must be filed in writing within one year from the date of the action upon which the complaint is based. The vice-chairman of the board serves as the complaints chairman. The complaints chairman investigates written complaints submitted to the board. According to the board's executive secretary, some complaints are resolved within two or three weeks, while others may take two or three months to longer, depending on the allegations in the complaint.

Resolution of Complaints

	<i>Number of Complaints Filed</i>	<i>Resolved</i>	<i>Unresolved</i>
2000	5	5	
2001	5	5	
2002	10	10	
2003	9	9	

COMPLAINT PROCESS

Investigations performed by	Executive Secretary – Forward complaints to Vice-Chairman who serves as the Complaints Chairman.
Anonymous Complaints	Anonymous complaints are not accepted
Initial Documentation	Written complaints signed by complainant are submitted to the board's executive secretary. Complaints are also received from the Attorney General's Office-Consumer Affairs Division.
Disposition of complaint if formal hearing not held	Board determines from investigative report if no probable cause or lack of evidence exists, in

	which case the complaint is dismissed. The Board may hold a formal hearing.
Status of investigating board member during hearings	Any board member involved in the investigation process is required to recuse himself from the hearing process.

FINANCIAL INFORMATION

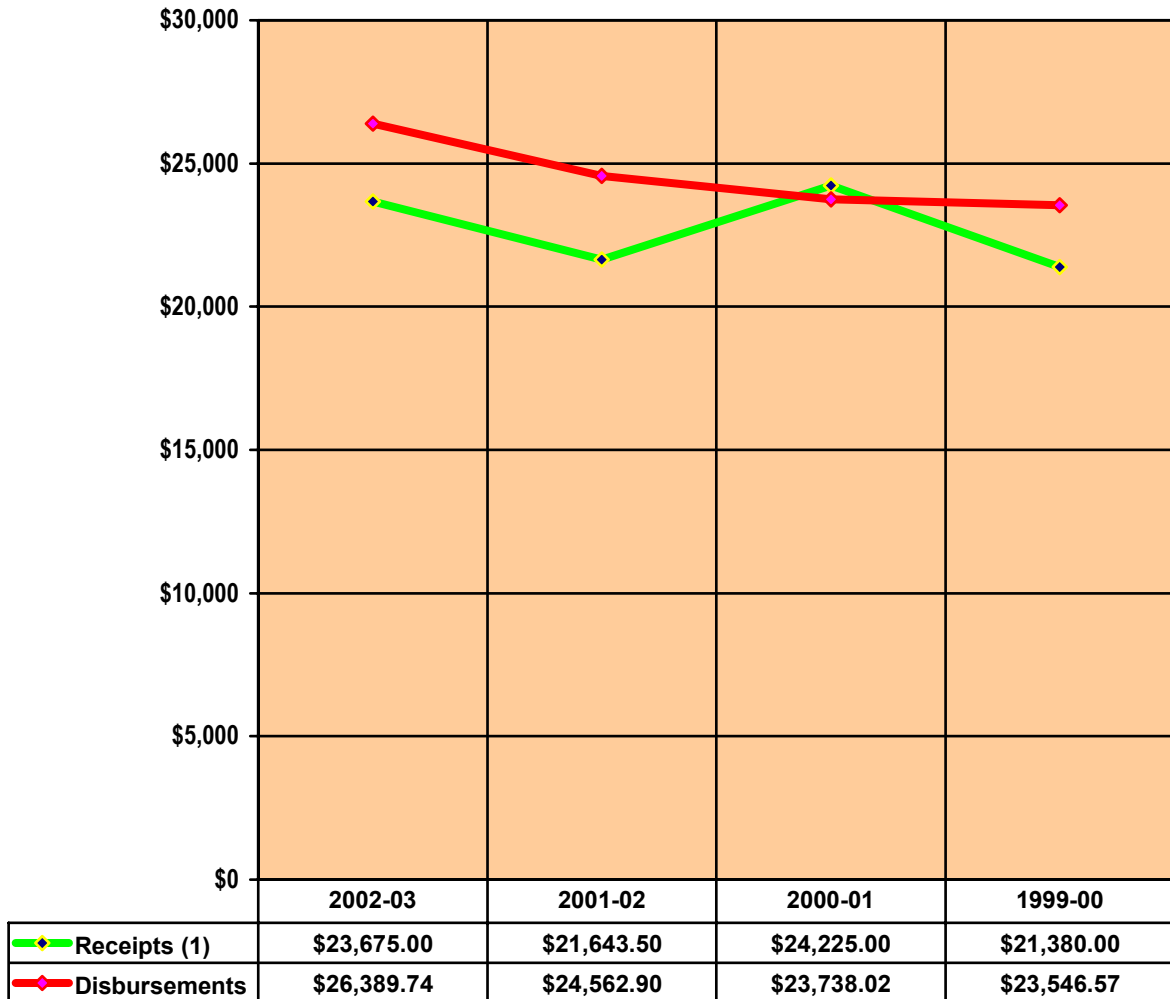
Schedule of Fees

<i>Fee</i>	<i>Statutory Authority Code of Alabama 1975</i>	<i>Amount</i>
Examination Fee	34-14-3	\$ 125.00
Fitter's License	34-14-6	100.00
Dispenser's License	34-14-6	150.00
Duplicate License	34-14-6	25.00
Late Fee	34-14-6	25.00
Reinstatement Fee	34-14-6	100.00
Apprentice Permit	34-14-7	100.00
Directory of Licenses (computer disk or paper)	Public Records Copy Fee	25.00
Administrative Fine	34-14-6	Not to exceed \$1,000.00 per violation

Schedule of Cash Receipts, Disbursements, and Balances
For the Period October 1, 1999 through September 30, 2003
Special Revenue Fund 770

	<u>2002-03</u>	<u>2001-02</u>	<u>2000-01</u>	<u>1999-00</u>
<u>Receipts</u>				
Licenses & Permits	\$ 23,675.00	\$ 21,643.50	\$ 24,225.00	\$ 21,380.00
Donation - Hearing Instrument Association	5,000.00			3,500.00
Total	<u>28,675.00</u>	<u>21,643.50</u>	<u>24,225.00</u>	<u>24,880.00</u>
<u>Operating Disbursements</u>				
Personnel Costs				50.00
Employee Benefits				3.82
Travel-In-State				341.20
Repairs and Maintenance				274.50
Utilities and Communications	1,402.04	1,228.22	1,616.08	1,233.32
Professional Services	23,452.91	21,511.45	19,991.88	19,650.00
Supplies, Materials and Operating Expenses	<u>1,534.79</u>	<u>1,823.23</u>	<u>2,130.06</u>	<u>1,993.73</u>
Total	<u>26,389.74</u>	<u>24,562.90</u>	<u>23,738.02</u>	<u>23,546.57</u>
Excess (Deficiency) of Receipts over Disbursements	2,285.26	(2,919.40)	486.98	1,333.43
Cash Balance at Beginning of Year	<u>26,496.62</u>	<u>29,416.02</u>	<u>28,929.04</u>	<u>27,595.61</u>
Cash Balance at End of Year	28,781.88	26,496.62	29,416.02	28,929.04
Reserved for Unpaid Obligations	<u>(500.00)</u>	<u>(1,800.00)</u>	<u>(4,850.00)</u>	<u>(4,300.00)</u>
Unreserved Cash Balance	<u>\$ 28,281.88</u>	<u>\$ 24,696.62</u>	<u>\$ 24,566.02</u>	<u>\$ 24,629.04</u>

Receipts vs. Operating Disbursements



(1) Does not include donations from the Hearing Instrument Association.

QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were sent to seven (7) board members. Six (6) responded. The seventh member term had expired.

1. What are the most significant issues currently facing the Alabama Hearing Instrument Dealers Board and how is the Alabama Hearing Instrument Dealers Board addressing these issues?
 - 1) Maintaining our professional and ethical responsibility to the consumer while not over regulating our dispensers and fitters. (It is a work in progress.)
 - 2) Continuing to perform testing of licensees & assure the people of Alabama are in good hands.
 - 3) Mail Order Hearing Instruments, the board has referred the issue to the State Attorney General.
 - 4) Funding.
 - 5) The need to eliminate designated fees the Board cannot change it
2. What changes to the Alabama Hearing Instrument Dealers Board laws are needed?
 - 1) Removal of sales tax on hearing aids etc
 - 2) Fee structure must be addressed, as well as, language changes to improve clarity & consistency
 - 3) None
 - 4) Stronger language regarding ethics for those dealers trying to meet the letter of the law but not the intent.
 - 5) The amount of designated fees needs to be eliminated so that the board has more flexibility to generate fees.
 - 6) There needs to be a change in the examination fee and the license fee to generate enough funds to sustain the Board

Board Member Questionnaire

3. Is the Alabama Hearing Instrument Dealers Board adequately funded?

 3 Yes 3 No Unknown No Opinion

4. Is the Alabama Hearing Instrument Dealers Board adequately staffed?

 6 Yes No Unknown No
Opinion

5. What is the purpose of your fiscal year end balance of unobligated funds?

- 1) I went off Dec 03
- 2) I was not aware of much extra, unobligated funds. We certainly must always have a reserve in case of legal or other unexpected financial needs.
- 3) To assure that we have adequate money to continue functioning as a necessary Board
- 4) Generally there are no year-end funds.
- 5) The close budget does not leave any residual funds.
- 6) Administrative funding
- 7) No significant funds are unobligated between the end of the fiscal year and the beginning of the calendar year when fees start coming in.

Licensee Questionnaire

Questionnaires were sent to one hundred (100) licensees. Seventy (70) responded.

1. Do you think regulation of your profession by the Alabama Board of Examiners for Hearing Instrument Dealers is necessary to protect public welfare?

63 Yes 5 No 2 Unknown No Opinion

- 1) Proper hearing health care by professionally trained and regulated providers would be seriously jeopardized without the current laws, and rules and regulations of the Board of Hearing Instrument Dealers. Without this oversight, there would be ample opportunity for unscrupulous individuals to enter this field to the detriment of the public
- 2) Very important
- 3) Extremely important
- 4) I do not feel we have enough regulations. I think we should have more, such as sanitation practices. I feel we should be required to more cautious about handling hearing aids and sanitizing our tools & equipment. I find it appalling how little we do.

2. Do you think any of the Alabama Board of Examiners for Hearing Instrument Dealers laws, rules, and policies are an unnecessary restriction on the practice of your profession?

7 Yes 60 No 2 Unknown 1 No Opinion

- 1) However, I think the temporary permit provision is not monitored And has the potential for abuse.
- 2) The laws, rules regulations and policies of the Board are in no way restricting my practice from providing quality, professional, hearing health care to the public. Those laws, rules and regulations are fair and equitable. Other stated have copied and emulated the Alabama statutes and regulations.
- 3) Not at This Time

3. Do you think any of the Alabama Board of Examiners for Hearing Instrument Dealers requirements are irrelevant to the competent practice of your profession?

5 Yes 50 No 6 Unknown 1 No Opinion

Licensee Questionnaire

- 1) While I would conduct my practice ethically and professionally regardless of rules and regulations, having the Board and its laws and policy in place help ensure ethical and professional conduct by all licensees, apprentices, and those looking for a professional medically related career.
4. Are you adequately informed by the Board of changes to and interpretations of the Alabama Board of Examiners for Hearing Instrument Dealers positions, policies, rules and laws?
- 50 Yes 19 No 1 Unknown ____ No Opinion
- 1) No information about Board rulings have ever been distributed to licensees.
- 2) The Board members brief the licensees two to three times each year concerning developments and changes to policy. Written communications are received from the Executive Secretary on a timely basis.
5. Has the Alabama Board of Examiners for Hearing Instrument Dealers performed your licensing and renewal in a timely manner?
- 70 Yes ____ No ____ Unknown ____ No Opinion
- 1) The Alabama Hearing Instrument Dealers Board is fortunate to have an exceptionally well qualified Executive Secretary and a professional and competent Board.
6. Do you consider mandatory continuing education necessary for competent practice?
- 61 Yes 9 No ____ Unknown ____ No Opinion
- 1) Continuing education is mandatory in this field, as the technological advances in this industry are rapid and comprehensive. The advances in digital sound processing have been enormous in the past few years.
- 2) It should be only thru the state association
- 3) Very Much So!
7. Has the Alabama Board of Examiners for Hearing Instrument Dealers approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?
- 53 Yes 11 No 4 Unknown 2 No Opinion

Licensee Questionnaire

- 1) The Board has provided adequate continuing education hours during meetings and conventions, encompassing several different sources.
 - 2) It would be nice to have availability to have the opportunity to get more continuing education hours.
 - 3) Could be more available
 - 4) If they have continuing ed. available other than the annual state meeting. I have never been aware of it.
8. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Alabama Board of Examiners for Hearing Instrument Dealers doing to address the issue(s)?
- 1) Unfair competition: Cheap or free hearing aids through UAB, V.A. etc... and the lack of quality care through these . We often have to clean up behind them or in most cases have to take over the servicing.
 - 2) Many insurance companies will not allow a hearing aid specialist to test and fit their subscribers unless either employed or working under an audiologist or a medical doctor. Second part of question – unknown.
 - 3) There is a continual, concerted effort on the part of audiologists represented by the American Academy of Audiology, the Academy of Dispensing Audiologist, and the American Speech, Language, Hearing Association to legislate that audiologists should be the gatekeepers for people wanting hearing evaluation and subsequent hearing aid fitting. This would eliminate the Hearing Instrument Specialist, which would be to ultimate detriment of the public.
 - 4) Mail order Hearing Instruments w/o state restriction. The Board has taken this to the Atty General But the state has not passed any ruling.
 - 5) Banning mail order sales.
 - 6) Keeping up with the times. Exchanging information with other states as to what is going on. Passing information along to our state association.
 - 7) Dealers who do not abide by the rules & regulations because of the size of their practice feel they are exempt. Cullman has had unlicensed people fitting hearing instruments – Jasper & Decatur also.

Licensee Questionnaire

- 8) Making sure these are enough licensed professionals to meet the public's needs. The board is doing a great job with licensing education and evaluation. They are keeping us informed and getting input. We need our Board for this main reason!
- 9) So far all issues have been addressed. The Board is doing a great job informing us of new issues, getting our input and addressing the matter. The Board is vital to our profession
- 10) All issues have been addressed timely & properly (no major issues at this time)
- 11) Allowing a convicted felon to continue to be licensed and sell hearing aids. The Lack of Formal Education Add/Or Training For HA Dealers-High School/GED Is not enough Today
- 12) Opportunities in my area.
- 13) Audiologists are trying to control the market
The board Feels by being independent would be better control
- 14) Reimbursement by insurance companies for services. Action by the Board Is unknown.
- 15) Too many dealers
- 16) People drive to Florida & Miss. to purchase hearing aids to avoid the sales tax. The colleges that teach hearing aid dispensing are in direct conflict with retail shops. Our board does nothing to fight either one of these.
- 17) mail order hearing aids: the board has written many letters to companies engaged in this practice.
- 18) Truth in Advertising Policies Offenders
- 19) Not sure
- 20) Cannot get professional liability ins the board is doing nothing
- 21) No opinion – But we need to make sure The Board continues to function as outlined in our state laws.
- 22) Audiologists wanting to take over profession & force us out. Not enough
- 23) The push for audiologist-only practice. They have kept us informed as well as helped to fight against the attack on hearing specialists.

Licensee Questionnaire

- 24) Unlicensed people practicing in the state I do not know what the board is doing
- 25) Dispensing audiologists-ensuring professionalism & education as a requirement to be board certified as well as requiring examinations in our profession which allows us greater leverage when competing with dispensing audiologists.
- 26) Provision of quality instruments adapted to the individuals hearing function at a reasonable price.....ABEHI is maintaining a registry of service providers, need to enhance public response answers for customers and review advertising relative to hearing testing and promotions of instruments mail order instruments.
- 27) Protecting our right to practice
- 28) Unlicensed sales people selling hearing aids – and no policing by the board
- 29) (1) Keeping the door's open – with VA fitting 35% of hearing aids dispensed in ALA. We need reimbursement for in home health care from medicaid & medicare!
- 30) We are not doing anything to prevent audiologists from taking over our profession
- 31) Truth in advertising - I'm not sure what actions are addressing this issue in the state of Alabama
- 32) (1) Rule breakers w/in our charge (2) Make sure everyone who fits H.A. has the same credentials
- 33) None that I can think of at this point
- 34) Better supervision of apprentices dispensers & board. And making study materials more readily available to apprentices
- 35) I feel it is very inappropriate to have actual dealers on the board. This opens the door for politics. I happen to know for a fact when I took my state board exam a few phone calls were made to insure I pass-my practice exam. Also when issues arise among dealers it becomes a political game. This eventually becomes a "board" issue. Who would know?
- 36) Mail order hearing aids. Don't know
- 37) The unethical practice of advertising in this state (A) unethical activities across the state (B) I'm not aware
- 38) Public Education regarding services and how to select service providers. I don't know what is being done.

Licensee Questionnaire

- 39) Incompetent fitters practicing under disp. that's concerned only in the sale! Disp. not available for supervision of fitter or & especially apprentice. What is being Done? Nothing – sponsors unavailable poor tests – fit but got their money!

9. Do you think the Alabama Board of Examiners for Hearing Instrument Dealers and its staff are satisfactorily performing their duties?

58 Yes 3 No 7 Unknown 2 No Opinion

- 1) I know all members of the Board, and all are professional, conscientious, and perform in an exceptional manner.
- 2) Sometimes
- 3) I adore Jeanne Stanfield
- 4) I do not believe they punish unethical & rule breakers enough (just small slaps on the wrists)
- 5) I love Jeanie Stanfield, she is excellent!

10. Has any member of the Alabama Board of Examiners for Hearing Instrument Dealers or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a Alabama Board of Examiners for Hearing Instrument Dealers service for you?

1 Yes 68 No 1 Unknown No Opinion

- 1) I have never heard of any instance where a request for money was made in exchange for services or information, or favors.
- 2) We definitely need our State Board.
- 3) Mr. [REDACTED] asked “[REDACTED]” (Non-profit?) to be its only source to: handle all their charity cases. (Profit)
- 4) One state needs to notify other states when someone has their license revoked.

Complainant Questionnaire

Questionnaires were sent to nineteen (19) persons who filed a complaint with the board. Thirteen (13) responded.

1. Was your complaint filed with the Alabama Hearing Instrument Dealers Board by:

 9 Mail 5 Phone 2 Fax 2 Other Unknown

2. Was receipt of your complaint promptly acknowledged?

 13 Yes No Unknown

If yes, approximately how long after you filed your complaint were you contacted by the Alabama Hearing Instrument Dealers Board?

 1 Immediately 5 Within 10 days 2 Within 20 days
 1 Within 30 days 4 More than 30 days 1 Did not respond
 Unknown

The only contact I had with or from them was by mail when I received the refund check from The Miracle Ear Representative.

3. Was the employee who responded to your complaint knowledgeable and courteous?

 7 Knowledgeable 6 Courteous Neither Unknown

Sent in letter form

Not applicable

By mail

4. Did the Alabama Hearing Instrument Dealers Board communicate the results of investigating your complaint to you?

 10 Yes 3 No Unknown

I had no contact from them. I advised what my problem was & what I expected in return & the next I heard was the refund from [REDACTED].

5. Do you think the Alabama Hearing Instrument Dealers Board did everything it could to resolve your complaint?

 10 Yes 3 No Unknown

Complainant Questionnaire

6. Were you satisfied with your dealings with the Alabama Hearing Instrument Dealers Board?

 9 Yes 4 No Unknown

➤ The Hearing Aids I contracted for did not fit and were unsatisfactory when they came, so I immediately requested a refund. When the refund came they did not refund the examination fee and that was what my problem was. They said the exam fee was never refunded, and I & my wife both told them there was no mention of that being withheld when the contract was written up. I explained all this in my letter to the board, they contacted [REDACTED] & I received payment from [REDACTED]. It was all as simple as that and I really appreciated it.

➤ I must tell you about the dealings with The Alabama Hearing Instrument Board. I called and told them I had a problem. I received the complaint forms within four days. I Filled out the forms and sent them in. In about a week and a half I was called by the person with whom I had the problem, and he settled immediately by refunding my money.

His statement to me was, "I DON'T WANT ANY TROUBLE WITH THE STATE OF ALABAMA.

➤ I understand the dealer I lodged the complaint against was forbidden to work in the State of Alabama. I also understand he is still working out of his store in Foley Alabama. If he is you can be sure some person is being misled and not being dealt with fairly.

APPENDICES

Statutory Authority

CHAPTER 14. HEARING INSTRUMENT DEALERS AND FITTERS.

ANNOTATIONS

CASENOTES

Generally 1 enter p

1. Generally

The dispensing of hearing aids, although in the broadest sense is in competition with private enterprise, is a function which is reasonably related to and promotive of the educational, research, and service mission of a modern university. *Churchill v. Board of Trustees of University of Alabama in Birmingham*, 409 So.2d 1382 (Ala.1982). *Colleges And Universities* 5

ARTICLE 1. GENERAL PROVISIONS.

§ 34-14-1. Definitions. [AL ST SEC 34-14-1]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

For purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

(1) Apprentice permit. A permit issued while the applicant is in training to become a licensed hearing instrument fitter.

(2) Board. The Board of Hearing Instrument Dealers.

(3) Dealer. A person licensed under this chapter prior to July 3, 1991 to fit and deal in hearing instruments. A dealer's license may remain valid until June 30, 1996 only by continuous renewal.

(4) Dispenser. Any trained person who shall meet all requirements of this chapter for licensure and who may engage in the practice of fitting and dealing in hearing instruments without the direct supervision of any person.

(5) Fitter. A trained, licensed person who shall engage in the practice of fitting and dealing in hearing instruments only under the direct supervision of a hearing instrument dispenser.

(6) Hearing instrument. Any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing excluding assistive listening devices.

(7) License. A license issued by the board under this chapter to a hearing instrument fitter

or dispenser.

(8) Practice of fitting and dealing in hearing instruments. The measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations or sale of hearing instruments. The term also includes the making of impressions for earmolds. A licensee or permit holder, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.

(9) Sell or Sale. Any transfer of title or of the right to use by lease, bailment or any other contract, excluding wholesale transactions with distributors or dealers.

(Acts 1971, No. 2425, p. 3858, § 1; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, substituted "a hearing aid fitter or dispenser" for "hearing aid dealers and fitters" in subdivision (2), in subdivision (3), substituted "Apprentice permit" for "Temporary permit" and deleted "dealer and" following "hearing aid," and added subdivisions (8) and (9).

The 1994 amendment, effective June 1, 1994, substituted "instrument" for "aid" throughout the section; deleted former subsection (1) defining "State Board" as the State Board of Health; added present subsection (3); substituted "excluding assistive listening devices" for "and any parts, attachments or accessories, including earmold, but batteries and cords" in subsection (6); substituted "board" for "state" in subsection (7); substituted "licensee or permit holder" for "dealer" in the third sentence of subsection (8); and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.02, Board of Hearing Instrument Dealers; Definitions.

§ 34-14-2. Licenses or permits -- Required; display; duplicates; corporations, partnerships, etc.[AL ST SEC 34-14-2]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

(a) No person shall engage in the sale of or practice of fitting hearing instruments or display a sign or in any other way advertise or represent himself as a person who practices the fitting and sale of hearing instruments unless the person holds a license or permit issued by the board as provided in this chapter. The license or permit shall be conspicuously posted in his or her office or place of business. Duplicate licenses or permits may be issued by the board to valid license holders operating more than one office, upon additional payment determined by the board for each additional office. A license under this chapter shall confer upon the holder the right to select, fit and sell hearing instruments.

(b) Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other

like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail without a license; provided, that it employs only properly licensed or permitted natural persons and that it shall have at least one licensed Alabama dispenser on its staff to provide direct supervision of any licensed fitters or apprentices employed in the direct sale and fitting of such products. Such corporations, partnerships, trusts, associations or other like organizations shall file annually with the board a list of all licensed hearing instrument dispensers, fitters, and apprentices directly or indirectly employed by them. Such organizations shall also file with the board a statement on a form approved by the board that they submit themselves to the rules and regulations of the board and the applicable provisions of this chapter.

(c) Nothing in this chapter shall apply to physicians licensed to practice medicine or employees under the supervision of a physician licensed to practice medicine, or to the professional corporation or professional association of such physicians.

(d) Nothing in this chapter shall apply to licensed speech pathologists or to licensed audiologists.

(Acts 1971, No. 2425, p. 3858, § 2; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, in subsection (b) inserted "and that it shall have at least one licensed Alabama dispenser on its staff to provide direct supervision of any licensed fitters or apprentices employed" in the first sentence, and added subsections (c) and (d).

The 1994 amendment, effective June 1, 1994, substituted "instruments" for "aids" throughout the section; in subsection (a), in the first and second sentences inserted "or permit" and in the third sentence substituted "or permits may" for "shall," deleted "state" preceding "board," substituted "upon" for "without" and added at the end "determined by the board for each additional office"; in subsection (b), in the first sentence inserted "or permitted," in the second sentence deleted "state" preceding "board" throughout, substituted "dispensers, fitters, and apprentices" for "dealers and fitters," inserted "applicable" and deleted from the end "which the state board shall deem applicable to them"; and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.03, Board of Hearing Instrument Dealers; Licensing and Administration.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons  4, 5.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 11, 19-20.

RESEARCH REFERENCES

Treatises and Practice Aids

Alabama Pattern Jury Instructions Civil, 2d 31.87, APJI 31.87. Trespass-Complaint-Statutory

§ 34-14-3. Licenses -- Issuance; fees; certificates of endorsement. [AL ST SEC 34-14-3]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

(a) The board shall register each applicant without discrimination who pays an examination fee of one hundred twenty-five dollars (\$125) and who satisfactorily passes an examination as provided in Section 34-14-4, and upon the applicant's payment of the application fee, shall issue to the applicant a license signed by the board. The license shall be effective until January 30 of the year following the year in which issued.

(b) An applicant who fulfills the requirements regarding age, character, education, and health, as set forth in subsection (a) of Section 34-14-4, and who shall provide proof of having met all requirements of certification as a national board certified hearing instrument specialist shall be issued a dispenser's license. All applicants who have current valid Alabama dealer's and fitter's licenses as of July 3, 1991, shall have five years from said date to obtain the requirements for certification. After the expiration of the five-year period, an applicant not providing proof of having met all requirements for certification as a national board certified hearing instrument specialist shall not be issued a dispenser's license but shall instead be issued a fitter's license.

(c) Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this chapter and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to this chapter are qualified to dispense and fit hearing instruments, the board may issue certificates of endorsement to applicants who hold current, unsuspended and unrevoked certificates or licenses to fit and sell hearing instruments in such other state or jurisdiction. No such applicants for certificate of endorsement shall be required to submit to or undergo a qualifying examination, etc., other than the payment of fees, pursuant to this section and Section 34-14-6. The holder of a certificate of endorsement shall be registered in the same manner as licensees. The fee for an initial certificate of endorsement shall be the same as the fee for an initial license. Fees, grounds for renewal and procedures for the suspension and revocation of certificates of endorsement shall be the same as for renewal, suspension and revocation of a license.

(Acts 1971, No. 2425, p. 3858, § 6; Acts 1985, No. 85-337, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, in subsection (a) substituted "the application fee" for "an application fee of \$100.00" in the first sentence, added present subsection (b), and redesignated former subsection (b) as present subsection (c).

The 1994 amendment, effective June 1, 1994, deleted "state" preceding "board" throughout the section; in subsection (a) substituted "one hundred twenty-five dollars (\$125)" for "\$25.00"; in subsection (c) substituted "instruments" for "aids" twice; and made nonsubstantive changes.

Code Commissioner's Notes

In 1994, the Code Commissioner substituted "requirements" for "requirement" in the second

sentence of subsection (b) to correct a grammatical error.


REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.03, Board of Hearing Instrument Dealers; Licensing and Administration.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons  4, 5(2).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19-24.

§ 34-14-4. Licenses -- Examination of applicants -- Generally. [AL ST SEC 34-14-4]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

(a) Applicants may obtain a license by successfully passing a qualifying examination; provided, that the applicant:

- (1) Is at least 19 years of age;
- (2) Is of good moral character;
- (3) Has an education equivalent to a four-year course in an accredited high school; and
- (4) Is free of contagious or infectious disease.

(b) An applicant who meets the qualifications of subsection (a) hereof as determined by the board who applies for license by examination shall appear at a time, place and before such persons as the board may designate to be examined by means of written and practical tests in order to demonstrate that he or she is qualified to practice the fitting and sale of hearing instruments. The examination administered as directed by the board constituting standards for licensing shall not be conducted in such a manner that college training is required in order to pass the examination. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.

(c) The board shall give examinations at least three times each year.
(Acts 1971, No. 2425, p. 3858, § 7; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, in subsection (c) substituted "90 days" for "180 days" and added "for a fitter's license" at the end of the subsection.

The 1994 amendment, effective June 1, 1994, in subsection (b), in the first sentence, substituted "instruments" for "aids"; in subsection (c) substituted "at least three times each year" for "as required to permit applicants to be examined within 90 days following the submission of the official application form for a fitter's license"; and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.04, Board of Hearing Instrument Dealers; Examinations for Licensure.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒4.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19-20.

§ 34-14-5. Licenses -- Examination of applicants -- Scope. [AL ST SEC 34-14-5]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

The qualifying examination provided in Section 34-14-4 shall be designed to demonstrate the applicant's adequate technical qualifications by:

(1) Tests of knowledge in areas specified by the board, provided the board is specifically authorized to adopt and administer a national examination; and

(2) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing instruments:

- a. Pure tone audiometry, including air conduction testing and bone conduction testing,
- b. Masking when indicated,
- c. Recording and evaluation of audiograms to determine proper selection and adaptation of a hearing instrument, and
- d. Taking earmold impressions.

(Acts 1971, No. 2425, p. 3858, § 9; Acts 1989, No. 89-268, p. 408, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1994 amendment, effective June 1, 1994, in subsection (2) substituted "instruments" for "aids"; and in paragraph c of subsection (2) substituted "instrument" for "aid."

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.04, Board of Hearing Instrument Dealers; Examinations for Licensure.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒4.

Corpus Juris Secundum:

§ 34-14-6. Licenses -- Renewal; continuing education. [AL ST SEC 34-14-6]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

(a) Each person who engages in the fitting and sale of hearing instruments shall annually, on or before January 30, pay to the board a fee for a renewal of his or her license and shall keep such certificate conspicuously posted in his office or place of business at all times. The fee shall be \$100.00 for a fitter's license and \$150.00 for a dispenser's license. Where more than one office is operated by the licensee, duplicate certificates shall be issued by the board for posting in each location upon payment of the fee. A 30-day grace period shall be allowed after January 30, during which time licenses may be renewed on payment of a late fee of twenty-five dollars (\$25), in addition to the license renewal fee, to the board. After expiration of the grace period, the license is expired and thereafter may be reinstated and renewed within two years. The board may renew such expired certificates upon payment of a one hundred dollar (\$100) reinstatement fee, in addition to the license renewal fee, to the board. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal; provided, that such renewal application is made within two years from the date of such expiration.

(b) The board shall adopt and maintain a program of continuing education for its licensees not later than October 1, 1991, and after said date no licensee shall have his or her active license renewed unless, in addition to any other requirements of this chapter, the minimum continuing annual education requirements are met.

(Acts 1971, No. 2425, p. 3858, § 11; Acts 1985, No. 85-337, p. 274, § 3; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, in subsection (a) deleted "of \$100.00" following "fee" in the first sentence, and added the second sentence.

The 1994 amendment, effective June 1, 1994, deleted "state" preceding "board" throughout the section; in subsection (a), in the first sentence substituted "instruments" for "aids," added "upon payment of the fee" at the end of the third sentence, in the fourth sentence inserted "late" and "in addition to the license renewal fee"; in subsection (b) inserted "and maintain"; and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.05, Board of Hearing Instrument Dealers; Continuing Education.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(2).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19, 21-24.

§ 34-14-7. Apprentice permit; fitter's license; supervision and training. [AL ST SEC 34-14-7]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

(a) An applicant who fulfills the requirements regarding age, character, education, and health, as set forth in subsection (a) of Section 34-14-4, may obtain an apprentice permit upon application to the board.

(b) Upon receiving an application as provided under this section and accompanied by a fee of one hundred dollars (\$100), the board shall issue an apprentice permit which shall entitle the applicant to engage in the fitting and sale of hearing instruments for a period of one year provided the apprentice has received 80 hours of academic and practical instruction under the direct supervision and immediate physical observation of the person holding a valid current Alabama hearing instrument dispenser's license. The licensed dispenser shall be totally responsible for the direct supervision and physical observation and training of the applicant thereafter. An apprentice permit may be renewed for an additional year, upon terms and conditions established by the board. An applicant may not be issued a second permit within a five-year period following the expiration date of the initial permit.

(c) An apprentice or applicant who successfully completes the fitter's examination may obtain a fitter's license upon application to the board, and payment of the license fee, which shall entitle the applicant to engage in the sale or fitting of hearing instruments until January 30th of the following year under the direct supervision of a person holding a current Alabama hearing instrument dispenser's license. The licensed dispenser shall be totally responsible for the supervision of all activities of the fitter pertaining to the sale and fitting of hearing instruments, upon payment of a one hundred dollar (\$100) fee.

(d) The dispenser who is responsible for the supervision and training of an apprentice shall not have more than four apprentices under his or her supervision at any time. There shall be no limitations on the number of fitters a dispenser may have under his or her supervision at any given time.

(e) The dispenser responsible for the supervision and training of any apprentice or fitter shall be subject to administrative actions with respect to licensure and to civil liability for all actions of an apprentice or fitter under his or her supervision when the apprentice or fitter engages in unethical, prohibited, fraudulent, deceptive, and misleading conduct involving the fitting and dispensing of hearing instruments.

(Acts 1971, No. 2425, p. 3858, § 8; Acts 1982, No. 82-146, p. 173, § 4; Acts 1985, No. 85-337, p. 274, § 3; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3; Act 2001-250, p. 301, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, rewrote this section.

The 1994 amendment, effective June 1, 1994, deleted "state" preceding "board," substituted

"instrument" for "aid" and "instruments" for "aids" throughout the section; in subsection (a) deleted the former second sentence which read: "Previous experience or a waiting period shall not be required to obtain an apprentice permit"; in subsection (b), in the first sentence substituted "has received" for "shall initially receive" and substituted the period at the end for "and who" and in the second sentence added "The licensed dispenser" at the beginning; in subsection (c), in the first sentence inserted "and payment of the license fee," substituted "until January 30th of the following year" for "for a period of one year" and substituted the period at the end for "who," and in the second sentence added "The licensed dispenser" at the beginning; in subsection (e) deleted "licensed Alabama" preceding "dispenser," deleted "who is" preceding "responsible for," deleted "trainee or" preceding "apprentice" and inserted "or fitter"; and made nonsubstantive changes.

he 2001 amendment, **effective April 19, 2001, in subsection (a) inserted a comma following "education"; in subsection (b), in the first sentence substituted "one hundred dollars (\$100)" for "\$50.00" and substituted "one year" for "nine months", in the second sentence substituted "direct supervision and physical observation" for "supervision" and substituted "the" for "such", inserted the third sentence, and in the final sentence substituted "An applicant may not" for "Such apprentice permit shall not be renewable, nor shall the applicant"; in subsection (c) substituted "one hundred dollar (\$100)" for "\$100.00"; and in subsection (e) inserted "or her" following "his", and substituted "the" for "such" following "supervision when".**

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒4.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19-20.

§ 34-14-8. Business address; mailing of notices by board. [AL ST SEC 34-14-8]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

(a) A person who holds a license shall notify the board in writing of the regular address of the place or places where he or she engages or intends to engage in the fitting or the sale of hearing instruments.

(b) The board shall keep a record of the place of business of licensees.

(c) Any notice required to be given by the board to a person who holds a license shall be mailed to him or her at the address of the last place of business of which he or she has notified the board.

(Acts 1971, No. 2425, p. 3858, § 10; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, deleted "by registered or certified mail" following "him" in subsection (c).

The 1994 amendment, effective June 1, 1994, deleted "state" preceding "board" throughout the section; in subsection (a) substituted "instruments" for "aids"; and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.06, Board of Hearing Instrument Dealers; Requirements for Businesses.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 53, 57.

§ 34-14-9. Complaint; hearing; depositions; appeal; administrative fines; grounds for revocation or suspension of license, reprimand, or fines. [AL ST SEC 34-14-9]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

(a) Any person wishing to make a complaint against a licensee or apprentice under this chapter shall reduce the same to writing and file his or her complaint with the board within one year from the date of the action upon which the complaint is based. If the board investigates and determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under this chapter shall be suspended or revoked, it shall make an order fixing a time and place for a hearing and require the licensee complained against to appear and defend against the complaint. The order shall have annexed thereto a copy of the complaint. The order and copy of the complaint shall be served upon the licensee at least 20 days before the date set for hearing, either personally or by registered or certified mail sent to licensee's last known address. Continuances or adjournment of hearing date shall be made if for good cause. At the hearing the licensee complained against may be represented by counsel. The licensee complained against and the board shall have the right to take depositions in advance of hearing and after service of the complaint, and either may compel the attendance of witnesses by subpoenas issued by the board under its seal. Either party taking depositions shall give at least five days written notice to the other party of the time and place of such depositions, and the other party shall have the right to attend, with counsel if desired, and cross-examine. Appeals from suspension or revocation may be made to the circuit court. In the event of an appeal, there shall be a trial de novo and the trial shall be before the court without the intervention of a jury.

(b) The board is hereby authorized to discipline its licensees and apprentices by the adoption and collection of administrative fines, not to exceed \$1,000.00 per violation and is authorized to institute any legal proceedings necessary to effect compliance with this chapter.

(c) Any person registered under this chapter may have his or her permit or license revoked or suspended by the board, be reprimanded by the board, or be administratively fined not more than

five hundred dollars (\$500) per violation by the board for any of the following causes:

(1) The conviction of a felony or a misdemeanor involving moral turpitude; the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be prima facie proof of such conviction;

(2) Procuring of license by fraud or deceit;

(3) Unethical conduct, including:

a. The obtaining of any fee or the making of any sale by fraud or misrepresentation;

b. Knowingly employing directly or indirectly any suspended or unregistered person to perform any work covered by this chapter;

c. Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceptive or untruthful;

d. Advertising a particular model or type of hearing instrument for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised;

e. Representing that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing instruments when that is not true, or using the words "doctor," "clinic" or similar words, abbreviations or symbols which tend to connect the medical profession when such use is not accurate;

f. Habitual intemperance;

g. Gross immorality;

h. Permitting another's use of a license;

i. Advertising a manufacturer's name or trademark which implies a relationship with the manufacturer that does not exist;

j. Directly or indirectly giving or offering to give or permitting or causing to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence him or have him influence others to purchase or contract to purchase products sold or offered for sale by a hearing instrument dispenser, fitter, or apprentice, or influencing persons to refrain from dealing in the products of competitors;

(4) Conducting business while suffering from a contagious or infectious disease;

(5) Engaging in the fitting and sale of hearing instruments under a false name or alias with fraudulent intent;

(6) Selling a hearing instrument to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing instruments, except in cases of selling replacement hearing instruments;

(7) Gross incompetence or negligence in fitting and selling hearing instruments; or

(8) Violating any provisions of this chapter.

(d) The board may bring an action to enjoin any person, firm, or corporation who, without being licensed or issued a permit by the board, dispenses hearing instruments in this state. The action shall be filed in the county in which such person resides or practices or in the county where the firm or corporation maintains an office or practices. Notwithstanding any other provisions of the law to the contrary, after notice and hearing, the board may issue a cease and desist order prohibiting any person from violating the provisions of this chapter by engaging in the practice of dealing, fitting, selling or dispensing hearing instruments without a license.

(Acts 1971, No. 2425, p. 3858, § 12; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, inserted "or apprentice" in the first sentence of subsection (a), inserted "and apprentices" in subsection (b), inserted "permit or" in the introductory paragraph of subsection (c), and substituted "dispenser, fitter, or apprentice" for "dealer or fitter" in paragraph (c)(3)j.

The 1994 amendment, effective June 1, 1994, deleted "state" preceding "board" throughout the section; in subsection (c) substituted "instruments" for "aids" and "instrument" for "aid" throughout the subsection and in the introductory language inserted "be reprimanded by the board, or be administratively fined not more than five hundred dollars (\$500) per violation by the board"; added subsection (d); and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.08, Board of Hearing Instrument Dealers; Investigations and Hearings.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons  11.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers § 35.

§ 34-14-10. Receipt to be furnished to person supplied with hearing instrument; persons under age 18 to be first examined by physician. [AL ST SEC 34-14-10]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

(a) Any person who practices the fitting and sale of hearing instruments shall deliver to each person supplied with a hearing instrument a receipt which shall contain the licensee's or apprentice's signature and show his or her business street address and the number of his or her license or permit, together with specifications as to the make and model of the hearing instrument furnished and the full terms of sale clearly stated. If an instrument which is not new is sold, the receipt and the container thereof shall be clearly marked as "used" or "reconditioned," whichever is applicable, with terms of guarantee, if any.

(b) Such receipt shall bear in no smaller type than the smallest used in the body copy portion the following:

"The purchaser has been advised at the outset of his or her relationship with the hearing instrument apprentice, fitter, or dispenser that any examination(s) or representation(s) made by a licensed hearing instrument apprentice, fitter, or dispenser in connection with the fitting and selling of this hearing instrument(s) is not an examination, diagnosis or prescription by a person licensed to practice medicine in this state and, therefore, must not be regarded as medical opinion or advice."

(c) Any person engaging in the fitting and sale of hearing instruments shall ascertain whether

a person under the age of 18 has been examined by a physician for his recommendation to be fitted with a hearing instrument within six months prior to the fitting. If such not be the case, no hearing instrument shall be sold to such person until such an examination is made. (Acts 1971, No. 2425, p. 3858, § 3; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, in subsection (a) substituted "or apprentice's signature and show his business street address and the number of his license or permit" for "signature and show his business address and the number of his certificate" in the first sentence; and in subsection (b) substituted "apprentice, fitter, or dispenser" for "dealer" near the beginning of the subsection, and substituted "apprentice, fitter, or dispenser" for "dealer and fitter" near the middle of the subsection.

The 1994 amendment, effective June 1, 1994, substituted "instruments" for "aids" and "instrument" for "aid" throughout the section; in subsection (b) substituted "smallest" for "largest"; and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.10, Board of Hearing Instrument Dealers; Receipts.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 53, 57.

§ 34-14-11. Duties of board; review of appeals for exemption from certification; subpoenaing witness's testimony and records. [AL ST SEC 34-14-11]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

(a) The board shall perform the following duties:

- (1) Authorize all disbursements necessary to carry out the provisions of this chapter;
- (2) Register persons who apply to the board who are qualified to engage in the fitting and sale of hearing instruments;
- (3) Administer, coordinate, and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for licensure under this chapter, issue and renew licenses and permits under this chapter, and investigate allegations of violations of this chapter;
- (4) Promulgate rules and regulations necessary to carry out the provisions of this chapter and to establish consumer protection provisions, provisions for prohibited practices, and requirements for businesses;

(5) Issue and renew a dispenser's license to sell and fit hearing instruments to any person who is duly licensed under the laws of this state as an audiologist; and

(6) Furnish a list of persons licensed under this chapter, upon request.

(b) The board shall be authorized to review individual appeals for exemption from required certification for a dispenser's license.

(c) The board may subpoena witness's testimony and records for any official hearing or proceeding of the board.

(Acts 1971, No. 2425, p. 3858, § 14; Acts 1982, No. 82-146, p. 173, § 4; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, inserted "dispenser's" in subdivision (5), and added subdivision (7).

The 1994 amendment, effective June 1, 1994, substituted "instruments" for "aids" throughout the section; deleted the introductory language which read: "The powers and duties of the state board are as follows:"; added subsection (a); in subdivision (2) of subsection (a) deleted "state" preceding "board"; rewrote subdivision (3) of subsection (a) which read: "To issue and renew licenses"; in subdivision (5) of subsection (a) deleted "The state board shall" from the beginning; deleted former subdivision (6) of subsection (a) which read: "To revoke or suspend licenses, or take such other disciplinary action as authorized by this chapter"; in subsection (b) deleted "state" preceding "board"; added subsection (c); and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.08, Board of Hearing Instrument Dealers; Investigations and Hearings.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

§ 34-14-12. Prohibited acts and practices. [AL ST SEC 34-14-12]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

No person shall:

- (1) Sell, barter or offer to sell or barter a license or permit;
- (2) Purchase or procure by barter a license or permit;
- (3) Alter a license or permit;
- (4) Use or attempt to use as valid a license or permit which has been fraudulently

obtained, counterfeited or materially altered; or
(5) Willfully make a false statement in an application for license or apprentice permit or application for renewal of a license.
(Acts 1971, No. 2425, p. 3858, § 13; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1994 amendment, effective June 1, 1994, inserted "or permit" throughout the section; in subsection (2) deleted from the end "with intent to sue it as evidence of the holder's qualification to practice the fitting and sale of hearing aids"; in subsection (3) deleted from the end "with fraudulent intent"; in subsection (4) deleted "license" following "valid"; in subsection (5) inserted "or apprentice permit"; and made nonsubstantive changes.

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 445-X-1-.07, Board of Hearing Instrument Dealers; Prohibited Acts.

§ 34-14-13. Chapter not applicable to certain persons and practices. [AL ST SEC 34-14-13]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

This chapter is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing instruments; provided, that such person or organization employing such person does not sell hearing instruments or accessories thereto.

(Acts 1971, No. 2425, p. 3858, § 4; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1994 amendment, effective June 1, 1994, substituted "instruments" for "aids" in two places; and deleted former subsection (b) which read: "This chapter does not apply to a person who is a physician licensed to practice in Alabama."

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒4.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19-20.

§ 34-14-14. Penalties. [AL ST SEC 34-14-14]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

A violation of this chapter shall be punishable as a Class C misdemeanor.
(Acts 1971, No. 2425, p. 3858, § 19; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1994 amendment, effective June 1, 1994, deleted "any provisions of" preceding "this chapter"; substituted "as a Class 'C' misdemeanor" for "upon conviction by a fine of not more than \$500.00 or by imprisonment for not more than 90 days, or both"; and made nonsubstantive changes.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒6(1), 10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 2-3, 5, 11, 14-15, 28, 53, 57.

ARTICLE 2. BOARD OF HEARING INSTRUMENT DEALERS.

§ 34-14-30. Established; composition; appointment; qualifications of members; terms of office; vacancies; officers; compensation and expenses; removal. [AL ST SEC 34-14-30]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

(a) There is established a Board of Hearing Instrument Dealers which shall administer this chapter.

(b) Members of the board shall be residents of the state and appointed by the Governor. The board shall consist of eight members as follows: five licensees, one of whom may be a fitter, one physician who specializes in diseases of the ear, one audiologist, and one consumer member. The consumer member shall have the same powers as other board members, except that the consumer member shall have no voting powers in matters of issuing, suspending, or revoking licenses, and neither the consumer, nor his or her spouse shall be a hearing instrument fitter or dispenser. Each hearing instrument fitter or dispenser on the board shall have no less than three years of experience and shall hold a valid license as a hearing instrument fitter or dispenser, as provided under this chapter. No member of the board shall be from the same business or firm of another board member, and no member shall be the spouse or immediate family member of another board member.

(c) All members of such board shall be appointed by the Governor from a list of qualified

persons nominated by the Alabama Hearing Aid Association. The term of office of each member shall be for four years. Before a member's term expires, the Governor shall appoint a successor to assume his duties upon the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the board shall annually designate one member to serve as chairman, another to serve as vice chairman, and such other officers it deems necessary. The vice chairman shall serve as the complaints chairman of the board. All board members serving on June 1, 1994 shall retain their membership on the board.

No member of the board who has served two or more full terms may be reappointed to the board until at least one year after the expiration of his or her most recent full term of office.

(d) Members of the board shall receive for each day actually engaged in the duties of the office a per diem amount of \$25.00, not to exceed the sum of \$1,000.00 per year, and reimbursement for traveling expenses as provided in Article 2 of Chapter 7 of Title 36, and other expenses, said remuneration and reimbursement to be paid from appropriations made for this purpose.

(e) The Governor may remove any member for neglect of duty, incompetency, or unprofessional conduct. The board may employ, and at its pleasure discharge, an executive secretary and such officers and employees as may be necessary, and the board shall fix their compensation.

(Acts 1971, No. 2425, p. 3858, § 15; Acts 1989, No. 89-268, p. 408, § 3; Acts 1991, No. 91-198, p. 365, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991 amendment, effective July 3, 1991, in subsection (b) substituted "five licensees, one of which may be a fitter" for "five hearing aid dealers" in the second sentence, and substituted "fitter or dispenser" for "dealer" in the third and fourth sentences.

The 1994 amendment, effective June 1, 1994, rewrote this section.

Code Commissioner's Notes

Section 2 of Acts 1989, No. 89-268 provides: "The existence and functioning of the Board of Hearing Aid Dealers, created and functioning pursuant to sections 34-14-1 through 34-14-33, Code of Alabama 1975, is hereby continued, and said code sections are hereby expressly preserved."

Acts 1991, No. 91-198, § 2 provides: "The existence of the hearing aid dealers licensing board, created and functioning pursuant to sections 34-14-1 through 34-14-33 of the Code of Alabama 1975, is hereby continued, and said code sections are hereby expressly preserved."

Acts 1993, No. 93-149, § 2, provides: "The existence and functioning of the Board of Hearing Aid Dealers, created and functioning pursuant to Sections 34-14-30 to 34-14-33, inclusive, is continued until October 1, 1994, and those code sections are expressly preserved until October 1, 1994."

Acts 1994, No. 94-180, provides:

"Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Hearing Instrument Dealers Board, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

"Section 2. The existence and functioning of the Hearing Instrument Dealers Board, created and functioning pursuant to Sections 34-14-1 to 34-14-33, inclusive, Code of Alabama, 1975, is

continued, and those code sections are expressly preserved."

Acts 1997, No. 97-150, § 2, provides: "The existence and functioning of the Board of Hearing Instrument Dealers, created and functioning pursuant to Sections 34-14-1 to 34-14-33, inclusive, Code of Alabama 1975, is continued until October 1, 1998, and those code sections are expressly preserved."

Act 98-144, § 2 provides: "The existence and functioning of the Board of Hearing Instrument Dealers, created and functioning pursuant to Sections 34-14-1 to 34-14-33, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

Act 2001-250, § 2 provides: "The existence and functioning of the Board of Hearing Instrument Dealers, created and functioning pursuant to Sections 34-14-1 to 34-14-33, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

§ 34-14-31. Attorney General to act as legal adviser. [AL ST SEC 34-14-31]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

The Attorney General of the state shall act as legal adviser of the board and shall render such legal assistance as may be necessary in carrying out the provisions of this chapter.

(Acts 1971, No. 2425, p. 3858, § 16; Acts 1989, No. 89-268, p. 408, § 3; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1994 amendment, effective June 1, 1994, rewrote this section which read: "The board shall advise the state board in all matters relating to this chapter, shall prepare the examinations required by this chapter and shall assist the state board in carrying out the provisions of this chapter."

REFERENCES

LIBRARY REFERENCES

American Digest System:

Attorney General ☒6.

Corpus Juris Secundum:

C.J.S. Attorney General §§ 7-15.

§ 34-14-32. Meetings. [AL ST SEC 34-14-32]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

The board shall meet not less than once each year at a place, day and hour determined by the board. The board shall also meet at such other times and places as may be requested by the state board.

(Acts 1971, No. 2425, p. 3858, § 17.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

§ 34-14-33. Disposition of receipts; account of board. [AL ST SEC 34-14-33]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

(a) On or before the tenth day of each month, the board shall pay into the State Treasury all moneys received by it under this chapter during the preceding calendar month. The State Treasury shall credit the moneys to the Board of Hearing Instrument Dealers Account, which account is hereby created.

(b) The moneys in the State Board of Health Hearing Aid Account shall, on June 1, 1994, be transferred to the account of the Board of Hearing Instrument Dealers, and the board may use funds in the account for the purpose of paying the expenses of administering and enforcing the provisions of this chapter.

(Acts 1971, No. 2425, p. 3858, § 18; Acts 1994, No. 94-180, p. 224, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1994 amendment, effective June 1, 1994, inserted subsection (a) and (b) designations; in subsection (a) deleted "state" preceding "board" throughout, in the first sentence of subsection (a) deleted "the provisions of" preceding "this chapter" and in the second sentence substituted "Board of Hearing Instrument Dealers" for "Board of Health Hearing Aid"; in subsection (b) substituted "shall, on June 1, 1994, be transferred to the account of the Board of Hearing Instrument Dealers, and the" for "are continuously appropriated to the state" and inserted "may use funds in the account"; and made nonsubstantive changes.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

Board Members



STATE OF ALABAMA HEARING INSTRUMENT DEALERS BOARD

400 South Union Street
Suite 445
Montgomery, Alabama 36130-3010
(334) 242-1925

MEMORANDUM

TO: Examiners of Public Accounts

FROM: Jeanne Stanfield
Executive Secretary

DATE: July 28, 2004

RE: Board Members for Alabama Hearing Instrument Dealers

The following is a current list of Board members that serve on the Alabama Hearing Instrument Dealers Board.

Nathan Cumbie
Beltone Hearing Aid Center
2129 Denton Rd
Dothan, AL 36303
Reappointment Date 9-9-2002
Expires: 12-31-2004

Bruel Davis
Rt 1. Box 419
Brundidge, AL 36010
Reappointment Date 1-13-2004
Expires: 12-31-2007

Kelly Hudson
Hearing Assoc., Inc.
PO Box 310901
Enterprise, AL 36331
Reappointment Date 9-9-2002
Expires 12-31-2004 ****Resigned 5/17/04**
VACANT POSITION

Douglas Dellaccio, Vice Chair
Local Hearing Service
827 N. 19th Street
Bessemer, AL 35020
Appointment Date: 9-22-02
Expires 12-31-2004

VACANT POSITIONS:
Physicians Position
3 Board Member Positions

Raymond Yount, Chairman
The Balance & Hearing Centers
800 Governors Drive
Huntsville, AL 35801
Appointment Date 6-27-2000
Expires 12-31-2002
Eligible for reappointment

Statute 94-180; 34-14-1 thru 14 and 34-14-30 thru 33

Submitted by Jeanne Stanfield
Jeanne Stanfield, Executive Secretary



**STATE OF ALABAMA
HEARING INSTRUMENT DEALERS BOARD**

400 South Union Street
Suite 445
Montgomery, Alabama 36130-3010
(334) 242-1925

ALABAMA BOARD OF HEARING INSTRUMENT DEALERS

SIGNIFICANT ITEMS RESPONSE

1. Board member appointments

The Alabama Hearing Aid Association makes nominations to the Governor for appointment to the Hearing Instrument Dealers Board. The association submitted four (4) names for consideration of appointment to the Governor earlier this year. Two members were for reappointment. One of the two has been reappointed. One remains to be reappointed.

Two names are new nominations for vacant board positions.
One of the two nominations is for the physician's position.
One is for the vacant position. – No appointments have been made at this time.

Two additional names are yet to be nominated by the Association to be submitted to the Governor for appointment, these nominations should take place at the Associations September 2004 meeting.

2. The law no longer names the intended organization as the nominating body for the board members.

The Alabama Hearing Aid Association has changed its name to the Alabama Society for Hearing Healthcare Providers.

The Alabama Hearing Instrument Dealers Board would like to change its statutes to reflect the Institution's name that is making the Board members nominations to the Governor.

3. The board is short of funds.

The Board members have elected to waive their expenses for some time now. The members feel that if they received their travel expenses it could create a shortfall of funds. The board proposes to submit legislations that would eliminate the designated fees currently in the law and allow the board flexibility to publish and change fees in its administrative rules and regulations without having to change the Code provisions. All fees would have a designated dollar amount not to exceed for each fee listed in the **proposed new section 34-14-1(10) FEES:**

4. Statutes that address administrative fines appear in conflict.

The *Code of Alabama 1975*, section 34-14-9(b) set administrative fines at not more than \$1,000 per violation while the fines set in the *Code of Alabama 1975*, section 34-14-9 (c) is set at not more than \$500 per violation.

The Board of Hearing Instrument Dealers plans to submit legislation to amend section 34-14-9(c) to reflect the same dollar amount of \$1,000 per violation set in section 34-14-9(b). The \$1,000 per violation would be administered should a serious violation occur or if repeated violations occur from the same licensee.

5. Statutes name the board's vice chairman as the complaints chairman.

The board wants to remove this requirement so the board can designate a complaints chairman or committee members in able to rotate its complaints received. Currently all complaints are handled by the vice-chairman and has at times created an overwhelming workload for one person. Rotating complaints would create an equal involvement among selected members and possibly expedite resolving complaints.